DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

INGERSOLL *v.* POND.

March 12, 1908.

[60 S. E. 738.]

1. Gifts—Inter Vivos—Delivery—Insurance Policy.—Insured in a beneficiary association declared that he would not continue to keep his assessment, but would assign the policy to any one who would do so, and gave his son a passbook in which to receipt payments of the assessments, but retained the policy. Held, that the delivery of the passbook was not a delivery sufficient to consummate a gift of the policy to his son.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 24, Gifts, § 51.]

2. Insurance—Mutual Benefit Insurance—Actions—Evidence.—In an action by one legatee of a person insured under a mutual benefit insurance policy against the other legatees to recover the whole amount of the policy, evidence held not to show an assignment of the policy to plaintiff.

SCHAUBUCH *v.* DILLEMUTH.

March 12, 1908.

[60 S. E. 745.]

1. Adverse Possession—Hostile Character of Possession—Possession by Grantor.—A grantor continuing in possession after the execution and delivery of a deed conveying the premises is not in possession as owner, but as tenant of the grantee, and a clear, positive, and continued disclaimer of such relation and the assertion of an adverse right brought home to the knowledge of the grantee are indispensable to render the possession adverse in character.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 1, Adverse Possession, §§ 337-338.]

2. Same.—A person possessing land of another through a mistake as to the boundaries of his own land, with no intent to claim as his own that which does not belong to him, but only intending to claim to the true line wherever it may be, does not hold adversely; the intention to hold adversely being an indispensable element of adverse possession.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 1, Adverse Possession, §§ 365-370.]

3. Writ of Error—Harmless Error—Erroneous Admission of Evidence.—Where, in ejectment by one claiming title through a con-

veyance from defendant, it appeared that defendant had conveyed 50 acres, that 33 acres had been in the actual possession of the grantee and those claiming under him since the conveyance, and that the balance of the tract had been in possession of defendant because of a mistake as to the east boundary line, the error, if any, in permitting plaintiff to prove that the boundaries of the land conveyed by defendant would be the same on the south and west sides of it, whether it contained 50 or only 33 acres, was not prejudicial to defendant.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 3, Appeal and Error, §§ 4153-4160.]

4. Ejectment—Evidence—Admissibility.—Where, in ejectment, the question involved the intention with which defendant had occupied the land which plaintiff claimed under defendant's conveyance, evidence that defendant, after learning that plaintiff was about to purchase the land, recognized the right of plaintiff's grantor to have the line so located, that the boundary would contain the quantity of land sold by defendant to plaintiff's remote grantor was admissible to show the intention with which defendant was occupying the land, though not admissible to show a disclaimer of title, nor to establish an equitable estoppel.

5. Trial—Reception of Evidence—Evidence Proper for Special Purpose.—Where evidence is admissible for a particular purpose and the objection to it is general, it is not reversible error to admit it without restricting it to that purpose.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 46, Trial, § 226.]

6. Adverse Possession—Evidence—Sufficiency.—Evidence held not to establish a party's claim of title to real estate by adverse possession.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 1, Adverse Possession, §§ 682-690.]

WHITTLE et al. *v.* WHITTLE'S EX'RS.

March 12, 1908.

[60 S. E. 748.]

1. Wills—Construction—Instrument as Whole.—The intention of testator is to be gathered from the will taken as a whole.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 49, Wills, § 966.]

2. Same—Division of Estate.—If a bequest is made to several persons in general terms, each individual will take the same share or per capita, and the rule is the same where a bequest is to one who is living and to the children of another who is dead, or where the gift